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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,566	09/26/2001	Thomas P. McKenna JR.	4000.2.74	7438

32641 7590 02/28/2006

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,566

Applicant(s)

MCKENNA, THOMAS P.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 17-36 and 53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 37-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/29/02; 08/16/02, 11/24/03, 12/16/02
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH
February 16, 2006


HAITRAN
PRIMARY EXAMINER

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of that illustrated in figures 16, 17, 18, 19, 20 and 21 respectively.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

2. During a telephone conversation with Applicant's representative Kory Christensen on November 21, 2005 a provisional election was made with traverse to

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prosecute the invention of species 1, claims 1-16, 37-52. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-36 and 53 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected species.

Claim Objections

3. Claims 38, 40-51 are objected to because of the following informalities:
In line 1 of claims 38, 40, 41, 42, 45-48, 50-51, the phrase "the system of claim 36" should be replaced as – the system of claim 37--. Appropriate correction is required.

Double Patenting

4. Claims 1-16, 37-52 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-5, 7, 10-11, 24-26, 28-30, 32, 35-36, 49 of U.S. Patent No. 6,915,528 in view of Lemmons et al. (US 6,442,755).

As to claim 1, Application claim 1 and patent claim 1 both are drawn to the same invention, "a method for providing supplemental information related to a television program" wherein claimed "supplemental information" and "entertainment system" of application 1 corresponds to "related information" and "set top box" of Patent claim 1

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respectively. Patent claim 1 does not recite "retrieving the supplemental information..." and "displaying the supplemental information on the display..."

Lemmons discloses retrieving supplemental information (i.e. text, promotional video, etc.) and displaying supplemental information on a display device (figures 4-7b; col. 6, lines 1-50). Therefore, it would have been obvious to one of ordinary skill in the art to modify Patent claim 1 to use the teaching as taught by Lemmons in order to view supplemental information on the screen.

As to claim 2, the additional limitations corresponds to the additional limitations of Patent claims 4 and 5, wherein the claimed "supplemental information server" in application claim correspond to "PIO server" in patent claim.

As to claim 3, Patent claim 1 in view of Lemmons discloses a method as claimed in application claim 2. It is obvious to one of ordinary skill in the art at the time the invention was made that to use PIO server as an Internet server in order to allow user to access a wide variety of resources that are maintained on computers located around the world.

As to claims 4-5, the additional limitation corresponds to additional limitation of patent claims 10 and 11.

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As to claim 6, the additional limitations correspond to limitations of patent claims 1 and 3. Since Patent claim 3 recites receiving a user selection of an action and executing the selected action, user selection of the visual indicator (i.e. action) is inherently detected so that the action is executed.

As to claim 7, patent claim 1 recites visual indicator displayable in a graphical user interface to facilitate user interaction with the PIO. Inherently, the visual indicator comprises a graphical icon.

As to claim 8, the additional limitations correspond to the limitations of patent claim 1 and 3 as discussed in the rejection of claim 6 above, wherein the "list of the plurality of user selectable actions..." in application claim correspond to "plurality of user selectable actions in a graphical user interface (GUI).

As to claim 9, patent claim 1 in view of Lemmons discloses a method as claimed in application claim 1. It is obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 in view of Lemmons to use the teaching of automatically displaying the supplemental information in response to the television program being presented by the entertainment system in order to display supplemental information at a desired time and at appropriate portion of the program thereby attracting user to watch supplemental information or order content associated with supplemental information.

As to claim 10, patent claim 1 in view of Lemmons discloses a method as claimed in application claim 1. It is obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 in view of Lemmons to use the teaching of automatically displaying the supplemental information prior to the television program being presented by the entertainment system in order to attract user to order/select a television program.

As to claim 11, patent claim 1 in view of Lemmons discloses a method as claimed in application claim 1. It is obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 in view of Lemmons to use the teaching of launching a browser configured to display the supplemental information; and displaying the supplemental information within the browser in order to allow user to access a wide variety of resource that are maintained on computers located around the worlds (col. 1, lines 56-63) for supplemental data.

As to claim 12, patent claim 1 in view of Lemmons discloses a method as claimed in application claim 1. It is obvious to one of ordinary skill in the art at the time the invention was made that the PIO comprises a set of link attributes, each link attribute comprising a different link to a set of supplemental information so that the user can select the links to display different supplemental information.

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As to claim 13, the additional limitations correspond to the limitation of patent claims 1 and 3, wherein "displaying a list..." correspond to displaying attributes, user selectable actions, etc. on the GUI.

As to claims 14-15, the additional limitations correspond to the additional limitations of patent claims 1 and 24.

As to claim 16, the additional limitation corresponds correspond to the additional limitation in patent claim 25.

As to claim 37, application claim 26 and patent claim 37 both are drawn to the same invention, "a system for providing...." wherein claimed "supplemental information" and "entertainment system" of application 37 corresponds to "related information" and "set top box" of Patent claim 26 respectively. Patent claim 26 does not recite "retrieval component that retrieves the supplemental information..." and "displaying component that displays the supplemental information..."

Lemmons discloses retrieval component (i.e. control circuitry) for retrieving supplemental information (i.e. text, promotional video, etc.) and TV or monitor displaying supplemental information on a display device (figures 2-3; col. 6, lines 1-50). Therefore, it would have been obvious to one of ordinary skill in the art to modify Patent claim 1 to use the teaching as taught by Lemmons in order to view supplemental information on the screen.

As to claim 38, the additional limitations corresponds to the additional limitations of Patent claims 29 and 30, wherein the claimed "supplemental information server" in application claim correspond to "PIO server" in patent claim.

As to claim 39, Patent claim 26 in view of Lemmons discloses a method as claimed in application claim 37. It is obvious to one of ordinary skill in the art at the time the invention was made that to use PIO server as an Internet server in order to allow user to access a wide variety of resources that are maintained on computers located around the world.

As to claims 40-41, the additional limitation corresponds to additional limitation of patent claims 35 and 36.

As to claim 42, the additional limitations correspond to limitations of patent claims 26 and 28. Since patent claim 28 recites receiving a user selection of an action and executing the selected action, user selection of the visual indicator (i.e. action) is inherently detected so that the action is executed.

As to claim 43, patent claim 27 recites visual indicator displayable in a graphical user interface to facilitate user interaction with the PIO. Inherently, the visual indicator comprises a graphical icon.

As to claim 44, the additional limitations correspond to the limitations of patent claim 26 and 28 as discussed in the rejection of claim 6 above, wherein the "list of the plurality of user selectable actions..." in application claim correspond to "plurality of user selectable actions in a graphical user interface (GUI).

As to claim 45, patent claim 26 in view of Lemmons discloses a method as claimed in application claim 37. It is obvious to one of ordinary skill in the art at the time the invention was made to modify claim 26 in view of Lemmons to use the teaching of automatically displaying the supplemental information in response to the television program being presented by the entertainment system in order to display supplemental information at a desired time and at appropriate portion of the program thereby attracting user to watch supplemental information or order content associated with supplemental information.

As to claim 46, patent claim 26 in view of Lemmons discloses a method as claimed in application claim 37. It is obvious to one of ordinary skill in the art at the time the invention was made to modify claim 26 in view of Lemmons to use the teaching of automatically displaying the supplemental information prior to the television program being presented by the entertainment system in order to attract user to order/select a television program.

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As to claim 47, patent claim 26 in view of Lemmons discloses a method as claimed in application claim 37. It is obvious to one of ordinary skill in the art at the time the invention was made to modify claim 26 in view of Lemmons to use the teaching of launching a browser configured to display the supplemental information; and displaying the supplemental information within the browser in order to allow user to access a wide variety of resource that are maintained on computers located around the worlds (col. 1, lines 56-63) for supplemental data.

As to claim 48, patent claim 26 in view of Lemmons discloses a method as claimed in application claim 37. It is obvious to one of ordinary skill in the art at the time the invention was made that the PIO comprises a set of link attributes, each link attribute comprising a different link to a set of supplemental information so that the user can select the links to display different supplemental information.

As to claim 49, the additional limitations correspond to the limitation of patent claims 26 and 28, wherein "displaying a list..." correspond to displaying attributes, user selectable actions, etc. on the GUI.

As to claims 50-51, the additional limitations correspond to the additional limitations of patent claims 26 and 49.

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As to claim 52, the limitations of the system as claimed in correspond to the limitations of the method as claimed in application claim 1. Patent claim 1 in view Lemmons discloses a method as discussed in the rejection of application claim 1 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the system to perform the method of application claim 1. Therefore, claim 52 is rejected as discussed in the rejection of application claim 1.

Allowance of application claims 1-16 and 37-52 would result in an unjustified time-wise extension of the monopoly granted for the invention defined by patent claims 1, 3-5, 7, 10-11, 24-26, 28-30, 32, 35-36, 49. Therefore, obviousness type double patenting is appropriate.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent; except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 4-8, 12-16, 37-38, 40-44, 48-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemmons et al. (US 6,442,755).

Regarding claim 1, Lemmons discloses a method for providing supplemental (i.e. text, promotion, etc. – figures 6A-6B, col. 8, lines 10-32) information related to a television program, the method comprising:

storing a program interface object (PIO) within an entertainment system, the PIO comprising a plurality of attributes, at least one attribute comprising a link to supplemental information related to the television program, the PIO further comprising a plurality of user selectable actions performed by the entertainment system in connection with the television program (storing in user television equipment program guide display elements (e.g., program times, channels, titles, and description, weather information, associated Internet web links, computer software, etc. and markup language documents, the program guide display elements comprises a plurality of attributes (e.g. font size, associated web site link, etc.) and a plurality of user selectable actions (e.g. set a reminder, schedule an associated program for recording, etc.) see including, but are not limited to, col. 2, lines 13-42; col. 3, lines 20-40; col. 5, line 34-col. 5, line 50);

retrieving the supplemental information referenced by the link; and displaying the supplemental information on a display device associated with the entertainment system (i.e. user selection of a link on the screen to access additional information such as text, graphics, promotional videos, etc.), the additional information referenced by the link is retrieved and displayed on screen of display device (i.e. television 36 or monitor 45 – figures 2, 3, 6a,-7b, col. 6, lines 1-50; col. 8, lines 10-40).

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Regarding claim 2, Lemmons further discloses in response to user selection of a link for supplemental information such as text or promotional video and information regarding the program being promoted, the requested supplemental information is displayed on the TV screen (e.g. text window 54 – figures 6A-7B, col. 8, lines 10-40). Inherently, communication is established with a supplemental information server (i.e. text or promotional information source), supplemental information referenced by the link is requested from the supplemental information server and received by the entertainment system so that the supplemental information (text, promotional videos) is displayed on the screen.

Regarding claim 4, Lemmons discloses a method as discussed in the rejection of claim 1. Lemmons also discloses providing associated Internet web links (col. 3, lines 24-25) and transmission data over the Internet (col. 4, lines 5-10). Inherently, the link comprise the URL to link to the web.

Regarding claim 5, Lemmons further discloses the link comprises a file name (e.g., attribute T2 – figures 7A, 7B, col. 2, lines 13-31).

Regarding claim 6, Lemmons further discloses the PIO comprises a visual indicator (i.e. icons of channel, time, title of the interactive program guide, or, logo – figures 4-6b), the method further comprising:

displaying the visual indicator in a graphical user interface (i.e. displaying interactive icons in interactive program guides – figures 4-6b). Lemmons further discloses the in response to user selection of icon on the interactive program guide, the associated action is performed (e.g. select an icon to schedule an associated program for recording, select icon to set parental control feature, etc. – col. 6, lines 6-50). Thus, the user selection of the visual indicator is detected so that the associated action is performed.

Regarding claim 7, Lemmons further discloses the visual indicator comprises a graphical icon (interpreted as graphical icons of interactive program guide – figures 4-6B).

Regarding claim 8, Lemmons further discloses the PIO further comprises a first action configured to display the supplemental information referenced by the link (e.g., action to display text, promotional video, etc. – col. 6, lines 42-50; col. 7, line 54-col. 8, line 32); the method further comprising:

displaying a list of the plurality of user selectable actions associated with the PIO (displaying a list of user selectable actions such as action to cause the grid to scroll, page, change its display, start program search, schedule for recording, etc. associated with program guide – col. 6, lines 1-50; col. 7, line 54-col. 8, line 30). Lemmons further discloses the supplemental information such as text, promotional video is displayed in response to user selection for supplemental information on the screen (see including,

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but is not limited to, col. 6, lines 6-50). Thus, user selection of the first action (text, promotional videos) is detected so that the text, promotional video is retrieved and displayed on the screen.

Regarding claim 12, Lemmons further discloses the PIO comprises a set of link attributes (interactive program guide comprises a plurality of link attributes (e.g., channels, times, colors, fonts, etc. – col. 2, lines 13-30; col. 7, lines 31-42, figures 4-7b); each link attribute comprising a different link to a set of supplemental information (i.e. link attribute for text link to text supplemental information, link attribute for pay per view link to pay per view information – figures 4-7b; col. 6, lines 1-50).

Regarding claim 13, Lemmons further discloses displaying a list of link attribute associated with the PIO (figures 4-7b); and receiving a user selection of a particular link attribute from the list of link attribute (i.e. selection of text, channel, etc. – col. 6, lines 1-50).

Regarding claim 14, Lemmons further discloses the supplemental information comprises an eXtensible Markup Language document (col. 3, lines 25-41).

Regarding claim 15, Lemmons further discloses the PIO is selected from the group consisting of XML objects (col. 3, lines 25-41).

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Regarding claim 16, Lemmons further discloses the entertainment system is selected from the group consisting of a personal computer, an interactive television (ITV) system (col. 5, lines 42-50).

Regarding claims 37-38, 40-44, 48-51, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1-2, 4-8, 12-15, and are analyzed as discussed with respect to the rejection of claims 1-2, 4-8, 12-15.

Regarding claim 52, the limitations of the system as claimed correspond to the limitation of the method as claimed in claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed "means for storing..." is interpreted as storage at the user television equipment (e.g., digital storage device 31 – figures 2-3; col. 4, lines 40-60); "means for retrieving..." is interpreted as control circuitry of the set top box (col. 5, lines 33-60); "means for displaying..." is interpreted as television (36) or monitor (45) – see figures 2-3, 6a, 6b.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 9, 11, 39,45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons as applied to claim 1 above, and further in view of Shoff et al. (US 6, 240,555).

Regarding claim 3, Lemmons discloses a method as discussed in the rejection of claim 2. Lemmons also discloses providing associated Internet web links (col. 3, lines 24-25) and transmission data over the Internet (col. 4, lines 5-10). However, Lemmons does not specifically disclose the supplemental information server comprises an Internet server.

Shoff, in an analogous art, discloses a method for providing supplemental information to the user-computing unit from a supplement information server comprises an Internet server (i.e. ISP host 84 – figure 4, col. 5, lines 23-60; col. 7, lines 24-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lemmons to use the teaching as taught by Shoff in order to expand capability of the system and allow user to access wide variety of resources that are maintained on computers located around the world (col. 1, lines 57-60).

Regarding claim 9, Lemmons discloses a method as discussed in the rejection of claim 1. Lemmons does not specifically disclose automatically displaying the supplemental information in response to the television program being presented by the entertainment system.

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Shoff discloses automatically displaying the supplemental information in response to the television program being presented by the entertainment system (if the program is an interactive program – col. 9, lines 60-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lemmons to use the teaching as taught by Shoff in order in order to display supplemental information at a desired time and at appropriate portion of the program thereby attracting user to watch supplemental information or order content associated with supplemental information.

Regarding claim 11, Lemmons discloses a method as discussed in the rejection of claim 1. Lemmons does not specifically disclose launching a browser configured to display the supplemental information, and displaying the supplemental information within the browser.

Shoff discloses launching a browser configured to display the supplemental information (if the program is interactive), and displaying the supplemental information within the browser (col. 3, lines 14-53, figure 8c). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lemmons to use the teaching as taught by Shoff in order to allow user to access a wide variety of resource that are maintained on computers located around the worlds (col. 1, lines 56-63) for supplemental data.

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Regarding claims 39, 45 and 47, the additional limitations of system as claimed correspond to the additional limitations of the system as claimed in claims 3, 9, 11, and are analyzed as discussed with respect to the rejection of claims 3, 9, 11.

9. Claims 10 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons as applied to claim 1 above.

Regarding claim 10, Lemmons discloses a method as discussed in the rejection of claim 1. Lemmons further discloses displaying the supplemental information prior to the television program being presented by the entertainment system (displaying promotional videos and information regarding the program being promoted prior to the program being promoted is selected for displaying (col. 8, lines 15-20). However, Lemmons does not specifically disclose the supplemental information is displayed automatically. Official Notice is taken that automatically displaying supplemental information prior to the television being presented by the entertainment system is well known in the art. For example, automatically disclose a preview or video clip of a pay per view video on the screen such as on advertisement window prior to television being ordered/selected and presented on the screen. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lemmons to use the well-known teaching in the art in order to attract user to order/select a television program.

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Regarding claim 46, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claim 10, and are analyzed as discussed with respect to the rejection of claim 10.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Alexander et al. (US 6,177,931) discloses system and method for displaying and recording control interface with television programs, video, advertising information and program scheduling information.

LeGall et al. (US 6,081,263) discloses system and method of a user configurable display of information resources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.